

Kathleen Hartnett White, *Chairman*  
Larry R. Soward, *Commissioner*  
H. S. Buddy Garcia, *Commissioner*  
Glenn Shankle, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

May 25, 2007

TO: Persons on the attached mailing list.

RE: Canyon Lake Ready Mix, Inc.  
TCEQ Standard Permit Registration No. 78844

### **Decision of the Executive Director.**

The executive director has made a decision that the above-referenced permit application meets the requirements of applicable law. **This decision does not authorize construction or operation of any proposed facilities.** This decision will be considered by the commissioners at a regularly scheduled public meeting before any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.

Enclosed with this letter is a copy of the Executive Director's Response to Comments. A copy of the complete application, draft permit and related documents, including public comments, is available for review at the TCEQ Central office. A copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at the TCEQ Central Office, the TCEQ San Antonio office, and the Post Office, 1300 Farm-to-Market Road 2673, Canyon Lake, Comal County, Texas.

If you disagree with the executive director's decision, and you believe you are an "affected person" as defined below, you may request a contested case hearing. In addition, anyone may request reconsideration of the executive director's decision. A brief description of the procedures for these two requests follows.

### **How To Request a Contested Case Hearing.**

It is important that your request include all the information that supports your right to a contested case hearing. You must demonstrate that you meet the applicable legal requirements to have your hearing request granted. The commission's consideration of your request will be based on the information you provide.

The request must include the following:

- (1) Your name, address, daytime telephone number, and, if possible, a fax number.
- (2) If the request is made by a group or association, the request must identify:
  - (A) one person by name, address, daytime telephone number, and, if possible, the fax number, of the person who will be responsible for receiving all communications and documents for the group; and
  - (B) one or more members of the group that would otherwise have standing to request a hearing in their own right. The interests the group seeks to protect must relate to the organization's purpose. Neither the claim asserted nor the relief requested must require the participation of the individual members in the case.
- (3) The name of the applicant, the permit number and other numbers listed above so that your request may be processed properly.
- (4) A statement clearly expressing that you are requesting a contested case hearing. For example, the following statement would be sufficient: "I request a contested case hearing."

Your request must demonstrate that you are an **"affected person."** An affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. Your request must describe how and why you would be adversely affected by the proposed facility or activity in a manner not common to the general public. For example, to the extent your request is based on these concerns, you should describe the likely impact on your health, safety, or uses of your property which may be adversely affected by the proposed facility or activities. To demonstrate that you have a personal justiciable interest, you must state, as specifically as you are able, your location and the distance between your location and the proposed facility or activities. A person who may be affected by emissions of air contaminants from the facility is entitled to request a contested case hearing. A person permanently residing within 440 yards of a concrete batch plant under a permit by rule is an affected person who is entitled to request a contested case hearing.

Your request must raise disputed issues of fact that are relevant and material to the commission's decision on this application. The request must be based on issues that were raised during the comment period. The request cannot be based solely on issues raised in comments that have been withdrawn. The enclosed Response to Comments will allow you to determine the issues that were raised during the comment period and whether all comments raising an issue have been withdrawn. The public comments filed for this application are available for review and copying at the Chief Clerk's office at the address below.

To facilitate the commission's determination of the number and scope of issues to be referred to hearing, you should: 1) specify any of the executive director's responses to comments that you dispute; and 2) the factual basis of the dispute. In addition, you should list, to the extent possible, any disputed issues of law or policy.

### **How To Request Reconsideration of the Executive Director's Decision.**

Unlike a request for a contested case hearing, anyone may request reconsideration of the executive director's decision. A request for reconsideration should contain your name, address, daytime phone number, and, if possible, your fax number. The request must state that you are requesting reconsideration of the executive director's decision, and must explain why you believe the decision should be reconsidered.

### **Deadline for Submitting Requests.**

A request for a contested case hearing or reconsideration of the executive director's decision must be in writing and must be **received by** the Chief Clerk's office no later than **30 calendar days** after the date of this letter: You should submit your request to the following address:

LaDonna Castañuela, Chief Clerk  
TCEQ, MC-105  
P.O. Box 13087  
Austin, Texas 78711-3087

### **Processing of Requests.**

Timely requests for a contested case hearing or for reconsideration of the executive director's decision will be referred to the alternative dispute resolution director and set on the agenda of one of the commission's regularly scheduled meetings. Additional instructions explaining these procedures will be sent to the attached mailing list when this meeting has been scheduled.

### **How to Obtain Additional Information.**

If you have any questions or need additional information about the procedures described in this letter, please call the Office of Public Assistance, Toll Free, at 1-800-687-4040.

Sincerely,



LaDonna Castañuela  
Chief Clerk

LDC/cz

Enclosures

MAILING LIST

for

Canyon Lake Ready Mix, Inc.

TCEQ Standard Permit Registration No. 78844

FOR THE APPLICANT:

William P. Murphy, Owner  
Canyon Lake Ready Mix, Inc.  
1929 Canyon Bend  
Canyon Lake Texas 78133

JD Kelley, General Manager  
Murphy's Mobile Concrete  
P.O. Box 8  
Converse, Texas 78109

INTERESTED PERSONS:

See attached list.

FOR THE EXECUTIVE DIRECTOR:

Tim Eubank, Staff Attorney  
Texas Commission on Environmental Quality  
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Austin, Texas 78711-3087

Helga Chatelle, Technical Staff  
Texas Commission on Environmental Quality  
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FOR OFFICE OF PUBLIC ASSISTANCE:

Ms. Bridget Bohac, Director  
Texas Commission on Environmental Quality  
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FOR PUBLIC INTEREST COUNSEL:

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FOR THE CHIEF CLERK:

LaDonna Castañuela  
Texas Commission on Environmental Quality  
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CANYON LAKE TX 78133-5267

TCEQ STANDARD PERMIT REGISTRATION NO. 78844

2007 MAY 21 PM 1:22

APPLICATION BY	§	BEFORE THE	CHIEF CLERKS OFFICE
	§		
CANYON LAKE READY MIX, INC.	§	TEXAS COMMISSION ON	
	§		
CANYON LAKE, COMAL COUNTY	§	ENVIRONMENTAL QUALITY	

**EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT**

The Executive Director ("ED") of the Texas Commission on Environmental Quality (the "Commission" or "TCEQ") files this Response to Public Comment ("Response") on the registration for Standard Permit No. 78844, filed by Canyon Lake Ready Mix, Inc. ("Canyon" or the "Applicant"), and preliminary decision. Comment was made by the following persons: Les Bacarisse, Edwina Bagley, Ann and Robert Bartlett, Mr. and Mrs. K. Bolt, Davis and Ines Bradley, David Bray, Edward W. Burdick, Erin Davis, John P. Donahue, Barry Hargrove, Paul D. Hunsucker, Dale Leacock, Jackie M. Lovell, Robin Nava, Manfred J. Nieder, Helen Thayer, and George and Jeanne Walker. As required by 30 Texas Administrative Code (TAC) § 55.156, before an application is approved, the ED prepares a response to all timely, relevant and material, or significant comments, whether or not withdrawn.

**PROCEDURAL BACKGROUND**

Canyon Lake Ready Mix, Inc. submitted a registration to the TCEQ on April 28, 2006, to construct and operate a permanent concrete batch plant ("CBP") under 30 TAC 116, subch. F, Standard Permit. The facility is proposed to be located at 5001 FM 2673, Canyon Lake, Comal County. The proposed facility will emit the following air contaminants: particulate matter including, but not limited to, aggregate, cement, and road dust.

Canyon's application was declared administratively complete on May 5, 2006, and technically complete on June 13, 2006. The Notice of Receipt and Intent to Obtain an Air Quality Permit was published on May 17, 2006 and on June 7, 2006, in the *Times Guardian*. The second publication was needed because the first publication was incomplete. The Notice of Application and Preliminary Decision was published on July 19, 2006, in the *Times Guardian*. Since this application was administratively complete after September 1, 1999, this action is subject to the procedural requirements adopted pursuant to House Bill 801.

### COMMENTS AND RESPONSES

#### COMMENT 1:

Concerned that the health of local residents would be negatively impacted by the operation of a CBP nearby. (John Donahue, Robin Nava, Jackie Lovell, Edward Burdick, David Bray, Dale Leacock). The CBP would be located near a residential area populated mostly by older citizens, many of whom suffer from respiratory conditions which would be aggravated by the CBP's operation. (Ann and Robert Bartlett, Edward Burdick, Dale Leacock, David Bray). Husband suffers from long-term health problems because of growing up in an area with poor air quality. (Erin Davis). Suffers from pleural thickening of the lung walls and pleural plaque due to asbestos exposure. Instructed by doctor to avoid emissions consisting of dust, smoke, and particulate matter because they would aggravate his condition. (Paul Hunsucker). Wife suffers from serious sinus allergies. (Manfred Nieder). Concerned about the effect that emissions from the CBP would have on his allergies and the health of local residents. (Barry Hargrove). Suffers from asthma and breathing problems which could be aggravated as a result of living downwind of a CBP. (Dale Leacock). Concerned about cancer recurring in lungs because of emissions from the CBP. If the CBP were built at its proposed location, he would have to move. (Les Bacarisse). Concerned that the wind would carry emissions from the CBP uphill which would ruin her property and affect her family's health. She and her husband are seniors who suffer from allergies. (Edwina Bagley). Commenter states he is allergic to dust and his health would be affected by operation of a CBP. (David Bray).

Operation of a CBP would negatively affect air quality. (George and Jeanne Walker, Edwina Bagley, Barry Hargrove). Concerned about air quality. (Erin Davis, Les Bacarisse, Dale Leacock). Air currents would carry pollutants from the CBP to areas of higher elevation where many people reside. (John Donahue, Ann and Robert Bartlett). Wind could carry emissions from the CBP to a vast area of Canyon Lake populated by thousands of families and elderly citizens. (Edward Burdick, David Bray). Operation of a CBP would allow dust to be blown into his house. (David Bray, Barry Hargrove). The prevailing wind blows from the proposed location of the CBP to his home nearby. (Paul Hunsucker). The wind blows from the south 90% of the time and would carry cement, aggregate dust, and diesel engine emissions to his residence. (Manfred Nieder). Approval of the application would allow the generation of significant emissions in a populated area. (Mr. and Mrs. Bolt). How was the permit approved when consideration is given to the fact that the CBP would be located in a valley and emissions would be blown uphill toward several residences? (Les Bacarisse). Concerned about increased pollutants in the air. (Robin Nava). Operation of the CBP would generate a lot of dust. (Helen Thayer). Concerned about dust pollution. (Jackie Lovell). Operation of the CBP would generate dust emissions and could potentially harm the Golden-cheeked Warbler's nesting area. The Golden-cheeked warbler is on the Federal Endangered Species List, has a limited habitat, and usually only lays one clutch of eggs per nesting season. (Davis and Ines Bradly).

Emissions from the CBP would degrade the environment. (Robin Nava). Concerned that the quality of the local environment would be diminished by the operation of a CBP. (Erin Davis). Operation of the CBP, which involves unloading trucks, washing trucks, and loading the cement machine, would generate a significant amount of pollution. Washing the mixer and emptying the trucks also generates pollution. (Helen Thayer).

**RESPONSE 1:**

The commission has determined that concrete batch plants operating under a standard permit are insignificant contributors of air contaminants to the atmosphere. The TCEQ conducted a protectiveness review for the CBP standard permit. This review concluded that, when operated properly, emissions from CBPs operating under a standard permit will be within state and federal limits.

Specifically, the protectiveness review determined CBP facilities operating under the standard permit would meet the following requirements: repealed 30 TAC § 111.155<sup>1</sup> fence-line concentration limits of 400  $\mu\text{g}/\text{m}^3$  (micrograms of PM per cubic meter) for an one-hour period and 200  $\mu\text{g}/\text{m}^3$  for a three-hour period; the National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter of 10 microns or less ( $\text{PM}_{10}$ ) of 150  $\mu\text{g}/\text{m}^3$  for a 24-hour period and 50  $\mu\text{g}/\text{m}^3$  annually; and applicable TCEQ toxicology and risk assessment health effects guidelines.

Since PM and  $\text{PM}_{10}$  were the only air contaminants of concern from these plants, the PM and  $\text{PM}_{10}$  ground-level concentration standards were used to determine protectiveness as mentioned above. These standards are based upon short-term and long-term health effects considerations. Using factors found in the Compilation of Air Pollutant Emission Factors Manual (AP-42), emissions were modeled to ensure all configurations would meet the NAAQS and other standards in effect.

The model used for the standard permit health effects review took into account worst-case meteorological conditions, including wind direction and speed. Emissions from the facility are expected to be protective at the property line of the proposed site. Dust ( $\text{PM}_{10}$ ) disperses as it travels further from its source. Therefore, emissions from the facility would not be expected to be harmful due to wind transport.

The NAAQS are created by the United States Environmental Protection Agency (EPA), and as defined in the federal regulations (40 Code of Federal Regulations (CFR) § 50.2), include both primary and secondary standards. The primary standards are those that the Administrator of the EPA determines are necessary, with an adequate margin of safety, to protect the public health, including sensitive members of the population such as children, the elderly, and individuals with existing lung or cardiovascular conditions. The state's health-based emissions limits are designed to be protective of these sensitive receptors. Secondary NAAQS are those that the Administrator determines are necessary to protect

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<sup>1</sup> Repealed May 17, 2006. While the ground-level concentration standards are no longer in effect, the distance limitations established under those standards remain a part of the standard permit. The distance limitations were established to ensure operation of a CBP would not adversely affect human health and the environment, regardless of the configuration of the CBP.



the public welfare and the environment, including animals, crops, vegetation, and buildings, from any known or anticipated adverse affects associated with the presence of an air contaminant in the ambient air. The protectiveness review included both primary and secondary NAAQS and concluded that if the proposed facility is operated as required, the emissions-based production limits in the standard permit are set to be protective of all those receptors. It should be noted receipt of a state air quality permit does not relieve the regulated entity from complying with all applicable federal requirements under the Endangered Species Act.

Individuals are encouraged to report any concerns about nuisance issues or suspected noncompliance with terms of any permit or other environmental regulation by contacting the TCEQ Regional Office at 210-490-3096, or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186. If the facility is found to be out of compliance with the terms and conditions of the permit, it will be subject to possible enforcement action. Citizen-collected evidence may be used in such an action. See 30 TAC § 70.4, Enforcement Action Using Information Provided by Private Individual, for details on gathering and reporting such evidence. The TCEQ has long had procedures in place for accepting environmental complaints from the general public but now has a new tool for bringing potential environmental problems to light. Under the citizen-collected evidence program, individuals can provide information on possible violations of environmental law and the information can be used by the TCEQ to pursue enforcement. In this program, citizens can become involved and may eventually testify at a hearing or trial concerning the violation. For additional information, see the TCEQ publication, "Do You Want to Report an Environmental Problem? Do You Have Information or Evidence?" This booklet is available in English and Spanish from the TCEQ Publications office at 512-239-0028, and may be downloaded from the agency website at [www.tceq.state.tx.us](http://www.tceq.state.tx.us) (under Publications, search for document no. 278).

**COMMENT 2:**

Request further investigation of the application before approving the permit. (Barry Hargrove, Dale Leacock).

**RESPONSE 2:**

The ED reviewed the application and determined that it was administratively and technically complete. The ED has also conducted a thorough review of this permit application to ensure it meets the requirements of all applicable state and federal standards. Provided the CBP is operated within the terms of the standard permit, adverse health effects are not expected. Therefore, the ED does not believe additional review is required.

**COMMENT 3:**

Concerned that operation of a CBP nearby would diminish his quality of life. (John Donahue). The site for the proposed CBP has been stripped of all vegetation. (Jackie Lovell).

**RESPONSE 3:**

The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. Issues such as zoning, noise, aesthetics, and traffic are beyond the jurisdiction of the TCEQ. The TCEQ does not have jurisdiction to prohibit owners and operators from seeking authorization to emit air contaminants; nor can the TCEQ prohibit owners and operators from receiving authorization to emit air contaminants if they comply with all statutory and regulatory requirements.

**COMMENT 4:**

Emissions from the CBP would interfere with residents' use and enjoyment of their property. (Robin Nava). Concerned about dust and pollution causing nuisance conditions on their property. (John Donahue, Ann and Robert Bartlett, George and Jeanne Walker, David Bray, Davis and Ines Bradley, Edward Burdick, Jackie Lovell, Helen Thayer, Les Bacarisse, Dale Leacock, Barry Hargrove, Manfred Nieder, Paul Hunsucker, Edwina Bagley).

**RESPONSE 4:**

Operators of concrete batch plants must meet standards outlined in the Texas Clean Air Act and applicable state and federal rules and regulations and must comply with 30 TAC § 101.4, which prohibits nuisance conditions. Specifically the rule states, "No person shall discharge from any source whatsoever one or more air contaminants or combinations thereof, in such concentration and of such duration as are or may tend to be injurious to or to adversely affect human health or welfare, animal life, vegetation, or property, or as to interfere with the normal use and enjoyment of animal life, vegetation, or property." As long as the facility is operated in compliance with the terms of the permit, nuisance conditions or conditions of air pollution are not expected. The TCEQ cannot deny authorization of a facility if a permit application demonstrates that all applicable statutes, rules, and regulations will be met.

**COMMENT 5:**

Protest approval of the application. (Jackie Lovell, George and Jeanne Walker). Do not approve the application. (Edward Burdick, Mr. and Mrs. Bolt). Object to approval of the application. (David Bray, Edwina Bagley). Requests that the TCEQ deny the application. (Paul Hunsucker). Disturbed that TCEQ has made a preliminary decision to issue the permit. (Les Bacarisse). Concerned about TCEQ's preliminary approval of the application. (Les Bacarisse).

**RESPONSE 5:**

Air quality permit applications are evaluated to determine whether standards outlined in the Texas Clean Air Act (TCAA) and applicable state and federal rules and regulations are met. As part of the permit evaluation process, the permit reviewer identifies all sources of air contaminants at the proposed facility, assures that the facility will be using the best available control technology (BACT) applicable for the sources and types of contaminants emitted, and determines that no adverse effects to public health, general welfare, or physical property are expected to result from a facility's proposed emissions. The TCEQ cannot deny a permit if the applicant demonstrates that all applicable statutes, rules, and regulations will be met. Special conditions and a maximum allowable emission

rates table are created to establish guidelines for the operation of the facility. The permit conditions are developed such that a facility that is operated within the terms and conditions of the permit should be able to operate in compliance with standards outlined in the TCAA and applicable state and federal rules and regulations.

**COMMENT 6:**

How can one protest the application? Who can help a homeowner? (Edwina Bagley).

**RESPONSE 6:**

A request for a contested case hearing must be timely received, in accordance with the requirements set forth in 30 TAC § 55.201. In order for a contested case hearing (CCH) request to be considered, the CCH request must be filed no later than 30 days after the chief clerk mails the Executive Director's preliminary decision on the permit application and response to comments document.

Further, CCH requests must contain the following: name, address, daytime telephone number, and, where possible, fax number of the person who files the request; identify the person's personal justiciable interest affected by the application, including a brief written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public; list all relevant and material disputed issues of fact that were raised during the public comment period and that are the basis of the hearing request.

A request for a CCH will be granted if the request is made by the applicant or the executive director. A request for a CCH may also be granted if it is made by an affected person, in writing, and if the request raises disputed issues of fact that were raised during the comment period, and not withdrawn by the commenter, and that are relevant and material to the commission's decision on the application. The request for a CCH must be timely filed with the chief clerk, sought pursuant to a right to hearing authorized by law, and comply with the requirements of Title 30 Texas Administrative Code § 55.201.

**COMMENT 7:**

The handwritten sign providing notice of the application was illegible, and the sign was later removed. Consequently, many local residents were unaware of the application. (John Donahue). At present, no sign is posted at the site of the proposed CBP. (Jackie Lovell). No sign was visible from the public road bordering the site. The TCEQ should require the Applicant to re-notice because the previous notice was inadequate. (Robin Nava). The TCEQ should conduct another review of the application because the notice provided was inadequate. Was proper notice given? (Edwina Bagley).

**RESPONSE 7:**

The *Notice of Receipt and Intent to Obtain an Air Quality Permit* was published in the *Times Guardian*, a newspaper of general circulation in the city of Canyon Lake which is the municipality of the proposed plant site. A sign that was visible from FM 2673 was

posted during the 15 day comment period following its first and second publication. Because the TCEQ received a request for a contested public hearing, the Applicant published the *Notice of Application and Preliminary Decision* in the same newspaper. No sign posting is required during the 30 day comment period which follows that publication. Canyon provided verification of publication in the form of affidavits and completed and signed the public notice verification form stating that signs were posted. The TCEQ believes that publication and sign posting were conducted in accordance with TCEQ rules as required by 30 Texas Administrative Code § 39.603.

**COMMENT 8:**

The Commissioners only control drive-ways and septic systems. (Edwina Bagley).

**RESPONSE 8:**

The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. The TCAA authorizes the commission to regulate the emission of air contaminants. The TCEQ regulates by permit the following in regard to the operation of a concrete batch plant: cement/flyash storage silos and weigh hoppers, fabric filters and collection systems, conveying systems for transferring cement/flyash, generation of dust emissions from in-plant roads, and stockpiles.

**COMMENT 9:**

The CBP should be located in a non-residential area. Concerned that the CBP would be located in a residential area that is predominantly populated by older citizens. (Ann and Robert Bartlett, Edward Burdick, Dale Leacock). It is unacceptable to construct a CBP 60 feet from my house and 90 feet from my bedroom. The CBP should be located at a site with safer roads nearby. (Helen Thayer). The CBP would be located directly beside residences. (Jackie Lovell). Concerned about the proximity of the proposed CBP to residences. (Barry Hargrove). There are already two CBPs within 15 miles of Canyon Lake. (Manfred Nieder). The CBP should be located on FM 306 instead of its proposed location, which is a populated area. (Mr. and Mrs. Bolt). There are other more suitable locations for a CBP. (George and Jeanne Walker). Concerned about the location of the proposed CBP. (Les Bacarisse). Concerned about the existence of numerous homes in the area. (Edwina Bagley). The CBP should be located in a remote area to prevent negative health effects. (Paul Hunsucker).

**RESPONSE 9:**

If authorized, the CBP will be required to utilize Best Available Control Technology ("BACT") for facilities of this type in order to keep emissions within state and federal limits. BACT for permanent CBPs includes: fabric or cartridge filter systems and enclosed conveying systems for cement or flyash storage silos and weigh hoppers; overfill warning devices on each bulk-storage silo; in-plant roads paved with a cohesive hard surface that shall be cleaned; stockpiles watered or sprinkled with dust-suppressant chemicals; and proper housekeeping practices at the plant that minimize and clean up any material spills.

The health protectiveness review conducted for the standard permit analyzed emissions from CBPs based on the standard permit's authorized 24 hours a day, 7 days a week operation. Emissions from properly operated CBPs operating at that capacity are expected to be within state and federal limits. Most CBPs do not operate continuously. Canyon represented in the registration for this standard permit that the facility would be operated 12 hours a day, 6 days a week.

If any person suspects Canyon or any other regulated entity is violating the terms of any permit or other applicable environmental regulations, they are encouraged to file a complaint with the TCEQ's 24-hour toll-free Environmental Complaints Hotline at (888) 777-3186. They may also contact the San Antonio Regional Office at (210) 490-3096. The TCEQ investigates all complaints received. Facilities found to be out of compliance will be subject to the TCEQ's enforcement procedures.

The TCEQ does not have zoning authority and therefore cannot prohibit an applicant from locating a facility in a certain area unless state regulations require specific distance setbacks from other structures. Canyon's registration meets all applicable setback requirements. Zoning authority is usually held by local authorities such as cities, municipalities, and their extra-territorial jurisdictions. Any questions about zoning issues should be directed to those authorities.

**COMMENT 10:**

TCEQ should inspect the area downwind from the proposed location of the CBP due to the strength of prevailing winds in that area. (Les Bacarisse).

**RESPONSE 10:**

Worst-case meteorological conditions were taken into account during the development of the standard permit. The comprehensive air dispersion modeling completed previously for the Air Quality Standard Permit for Concrete Batch Plants protectiveness review was used to demonstrate state and federal standards are not exceeded. The data used was from the Austin Surface Station and Victoria Upper-air Station over a period of five years. The data was used by Industrial Source Complex Model version 3 (ISCST3) to determine the highest predicted concentrations and exceedence frequencies over 43,824 hours during those five years. Therefore, the ED does not believe the requested inspection is necessary.

**COMMENT 11:**

Has the Applicant definitely decided on a specific location? (Edwina Bagley).

**RESPONSE 11:**

The TCEQ received an application to register Canyon's concrete batch plant at 5001 FM 2673, Canyon Lake, Comal County, Texas. The Commission is not aware of any changes.

**COMMENT 12:**

The Applicant does not have any history on file. (Edwina Bagley).

**RESPONSE 12:**

The company is a new company and has no history with the TCEQ at this time.

**COMMENT 13:**

Exhaust from trucks associated with the CBP would travel to areas of higher elevation where many local residents live. (John Donahue). Concerned about exhaust from diesel trucks. (David Bray, Manfred Nieder). Concerned about emissions caused by trucks operating at the CBP. (Helen Thayer). Operation of the CBP at the proposed location would be dangerous for traffic, including school busses, on adjoining roads because of a blind spot nearby. (Helen Thayer, George and Jeanne Walker).

**RESPONSE 13:**

The TCEQ does not have jurisdiction over public roads like FM 2673. The TCEQ also has no air quality permitting authority over emissions from roads because under 30 TAC § 116.10 (6) roads are expressly excluded from the TCAA's definition of a "facility." In addition, the TCAA does not regulate combustion emissions from trucks operating on the site because trucks are not stationary facilities. Jurisdiction over traffic safety and public roadway issues in general is held by the Texas Departments of Public Safety and Transportation, as well as local law enforcement authorities. Questions or concerns about traffic or public road issues should be directed to those authorities.

**COMMENT 14:**

Wells located at elevations lower than the CBP could be negatively affected. (John Donahue). Operation of the CBP would prevent their well from functioning. (George and Jeanne Walker). Operation of the CBP could contaminate the groundwater. (Helen Thayer).

**RESPONSE 14:**

The Texas Clean Air Act governs air quality; it does not require the review of water wells or the impact an added facility may have on neighboring wells. Concerns about well water may be addressed to the Texas Water Development Board in Austin, by calling 512-463-7847 or writing to P.O. Box 13231, Austin, Texas 78711.

This permit does not authorize the discharge of pollution onto the ground or into a body of water. Canyon must comply with all TCEQ rules and regulations including any applicable requirements regarding water discharges or storm water. Questions concerning ground, surface or waste water may be addressed to the Water Permits and Resource Management Division in Austin at 512-239-4300, or to the TCEQ San Antonio Regional Office 210-490-3096.

**COMMENT 15:**

Noise from the CBP would reach the homes of residents. (John Donahue). Noise from the CBP would interfere with residents' use and enjoyment of their property. (Robin Nava, Jackie Lovell, George and Jeanne Walker).

**RESPONSE 15:**

The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. Accordingly, the TCEQ does not have jurisdiction to consider noise from a facility when determining whether to approve or deny a permit application.

**COMMENT 16:**

Comal County would lose revenue due to lowered property values if the application is approved. (George and Jeanne Walker).

**RESPONSE 16:**

The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. Accordingly, the TCEQ does not have jurisdiction to consider zoning or effects on property values when determining whether to approve or deny a permit application. Except under limited circumstances, which do not exist under this particular permit application, the issuance of a permit cannot be denied on the basis of the facility location.

**COMMENT 17:**

TCEQ should do everything it can to help protect the environment of the neighborhood. (Edwina Bagley).

**RESPONSE 17:** The Executive Director has reviewed the permit application in accordance with the applicable law, policy and procedures, and the Agency's mission to protect the State's human and natural resources consistent with sustainable economic development. If the facilities are operated as specified in the permit terms and conditions, the emissions from the equipment covered by this permit should not adversely impact people or air quality. Individuals are encouraged to report any environmental concerns at the site by contacting the TCEQ San Antonio Regional Office at (210) 490-3096, or by calling the twenty-four hour toll-free Environmental Complaints Hotline at 1-888-777-3186. The TCEQ investigates all complaints received. If the facility is found to be out of compliance with the terms and conditions of the permit, it will be subject to possible enforcement action.

**Changes Made in Response to Public Comment**

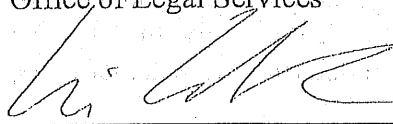
No changes to the permit have been made in response to public comment.

Respectfully Submitted,

TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

Glenn Shankle  
Executive Director

Stephanie Bergeron Perdue, Deputy Director  
Office of Legal Services



Tim Eubank, Staff Attorney  
Environmental Law Division  
State Bar No. 24048458

REPRESENTING THE  
EXECUTIVE DIRECTOR OF THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

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